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Special Litigation Counsel
for the Chapter 7 Trustee Janina M. Hoskins

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

GROWTH CAPITAL SERVICES, INC., a
Delaware corporation,

Debtors.

Bankruptcy. Case No. 22-30218-HLB

Chapter 7

**NOTICE OF HEARING ON
APPLICATION OF SULLIVAN
BLACKBURN PRATT LLP FOR FINAL
APPROVAL OF EARNED
CONTINGENCY FEES FROM THE
SETTLEMENT BETWEEN THE
CHAPTER 7 TRUSTEE AND
DEFENDANTS AND REIMBURSEMENT
OF EXPENSES**

Date: April 4, 2024

Time: 10:00 am

Judge: Hon. Hannah L. Blumenstiel

LOCATION: Via Tele/Videoconference,
www.canb.uscourts.gov/calendars

NOTICE IS HEREBY GIVEN that Sullivan Blackburn Pratt LLP (“SBP”) special litigation counsel for Janina M. Hoskins, the duly appointed Chapter 7 Trustee (“Trustee”) of the

1 estate of Growth Capital Services, Inc. (“Debtor” or “GCS”) has filed the *Application of Sullivan*
2 *Blackburn Pratt LLP for Final Approval of Contingency Fees From the Settlement Between the*
3 *Chapter 7 Trustee and Defendants and Reimbursement of Expenses* (“Application”). The hearing
4 will be held on April 4, 2024 at 10:00 a.m. or as soon thereafter as the matter may be heard before
5 Honorable Hannah L. Blumenstiel, United States Bankruptcy Judge. The hearing will be held by
6 video by Zoom or by telephone via AT&T conference call. The Bankruptcy Court’s website
7 provides information regarding how to arrange an appearance at a video or telephonic hearing. If
8 you have any questions on how to participate in a video or telephonic hearing, you may contact
9 the Court by calling 888-821-7606 or by using the Live Chat feature on the Bankruptcy Court’s
10 website.

11 By way of the Application, SBP moves for final approval of earned contingency fees in the
12 amount of \$136,342.80 plus reimbursement of costs in the amount of \$6,419.19 to be paid from
13 the proceeds of the settlement between the Trustee and Defendants Michael David Whelchel
14 (“Whelchel”) and Finalis Securities LLC (“Finalis”) arising out of the adversary proceeding,
15 *Janina M. Hoskins, in her capacity as Chapter 7 Trustee of Growth Capital Services, Inc. v. David*
16 *Michael Whelchel and Finalis Securities, LLC*, Adv. P. No. 22-03019 (“Adversary Proceeding”).

17 Due to the Trustee’s and SBP’s efforts, the Trustee settled the Adversary Proceeding and
18 entered into a Settlement Agreement with Whelchel and Finalis. The Settlement Agreement is
19 attached as Exhibit A to the Declaration of Janina M. Hoskins filed in support of the *Motion to*
20 *Approve Settlement Agreement* (“Settlement Motion”). (Dkt. No. 35). The settlement provides for
21 payment of \$370,000 to the Trustee for the benefit of the estate (“Settlement Amount”).

22 The Court previously approved SBP’s employment pursuant to § 328(a) of the Bankruptcy
23 Code and per the terms set forth in the SBP’s employment application and the contingency fee
24 engagement agreement filed along with the application. (Dkt. No. 25, 30). Per the terms of the
25 engagement agreement approved by the Court, if the Trustee is unable to timely pay all Expenses
26 and Recovery is received pursuant to a settlement, judgment or otherwise, any time after 120 days
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1 of the Bankruptcy Court's order approving SBP's employment (June 3, 2023) and before the
2 Commencement of Trial, SBP is entitled to (i) 37 ½ % of all Net Recoveries and (ii)
3 reimbursement of all unpaid Expenses to be paid from the Recovery. SBP's percentage of Net
4 Recoveries is only limited by the deduction of all necessary and out of pocket Expenses incurred
5 in connection with the Contingency Litigation Claims. SBP has not been reimbursed its expenses.

6 The total amount of expenses incurred by SBP in prosecuting the Adversary Proceeding
7 is: \$6,419.19 [filing the complaint \$350; mediation costs: \$6,000; postage costs: \$69.19]. SBP
8 submits that all the expenses were reasonable and necessary. The Settlement Amount of \$370,000
9 less Applicants' combined expenses of \$6,419.19 is \$363,580.81 to which the 37 ½ will apply.
10 37 ½ of \$363,650 is \$136,342.80. ("Earned Contingency Fee"). SBP requests that the Court grant
11 final approval of the Earned Contingency Fee of \$136,342.80 plus reimbursement of costs in the
12 amount of \$6,419.19 to be paid from the proceeds of the settlement between the Trustee and
13 Defendants.

14 NOTICE IS FURTHER GIVEN that the Application is supported by this Notice and the
15 Declaration of Christopher D. Sullivan.

16 NOTICE IS FURTHER GIVEN that any opposition to the requested relief shall be filed
17 and served on the initiating party no less than 7 days before the actual scheduled hearing date. *See*
18 B.L.R. 9014-1(c).

19 Dated: March 11, 2024

SULLIVAN BLACKBURN PRATT LLP

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21
22 By: /s/ Christopher D. Sullivan
23 Christopher D. Sullivan

24 Attorneys for the Chapter 7 Trustee
25 Janina M. Hoskins